

Atty. Dkt. No. 037145-1201

REMARKS

This response is identical to the response filed June 15, 2007 in reply to the non-final Office Action dated April 3, 2007. The only change is that the transmittal and this response are signed by the attorney of record.

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Claims 1, 4, 6, 9, and 20 are currently being amended.

This amendment adds, changes and/or deletes claims in this application. A detailed listing of all claims that are, or were, in the application, irrespective of whether the claim(s) remain under examination in the application, is presented, with an appropriate defined status identifier.

After amending the claims as set forth above, claims 1-22 are now pending in this application.

In the April 3, 2007 Office Action, the Examiner rejected claims 6-8 under 35 U.S.C. §101 because, in the Examiner's view, the claims are directed to non-statutory subject matter such as computer program product. In response to this rejection, Applicant has amended independent claim 6 to describe the computer program product as being embodied in a computer readable medium, such as a memory unit for example. However, given the U.S. Patent and Trademark Office's ongoing review concerning subject matter eligibility under 35 U.S.C. §101, Applicant fully reserves the right to revisit this issue in either this application or a subsequent continuation application.¹

The Examiner rejected claims 1-17 and 19-22 under 35 U.S.C. §102(e) as being anticipated by U.S. Publication No. 2006/0031768 (Shah et al.) In making these rejections, the Examiner has taken the position that all the features in this claims can be found in Shah et al. For the following reasons, Applicant respectfully disagrees with this assertion.

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Independent claims 1, 6, 9 and 20 describe various uses of a virtual device domain, where use of the virtual vice domain enables the automatic synchronization of various devices and/or virtual devices. As is discussed throughout the present application, the systems and methods described in the various independent claims provide a mechanism by which, through the use of the virtual devices, different physical devices can be quickly and automatically synchronized whenever a change occurs in another device. For example, paragraph [0043] of the present application discusses the use of a photo album application and data associated therewith. As discussed in this paragraph, "assuming that the photo album is among the data that is selected to be synchronized, the picture taken is automatically uploaded to the virtual device domain and synchronized to the other active devices that are set up to receive the photo album data." In other words, based on the configurations that have been set, new data or modified data can be automatically provided to other devices without requiring any user action.

In contrast, Shah et al. teaches no such system for synchronizing multiple devices. Instead, Shah et al. teaches the use of a graphical user interface by which various hardware and software programs can be associated with each other by the user, but without any such synchronization features. For example, paragraph [0019] of Shah et al describes a "drag and drop" system by which a program can be associated with a device icon in a configuration diagram, thereby indicating that the program is to be stored and/or executed on the device corresponding to the device icon. Importantly, however, such an association is not tantamount to synchronization, which is commonly understood in this field to refer to having files, programs or other content updated in one device so as to reflect the configuration of the files programs or content in a different device. In fact, paragraph [0019] clearly demonstrates the difference between the "associating" function of Shah et al. and the synchronization process described in the currently pending independent claims. More particularly, a portion of paragraph [0019] is as follows:

More generally, where graphically associating the first product icon with the configuration diagram includes indicating a

¹ Applicant has also made a minor amendment to claim 4 for clarification purposes only. Applicant does not intend to narrow the scope of this claim by making this amendment.

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selection of the first product from the plurality of products, the method may automatically display a second plurality of product icons representing second products available for use in the measurement system based on one or more past selections. In this way, the method may successively refine the presentation of product options to the user as the user provides successive selection information. Similarly, if the user modifies the configuration diagram, e.g., changes the connectivity among the diagram elements or removes an element from the configuration, the method may modify the displayed product icons in accordance with the new configuration.

In other words, the “association” function in Shah et al. is a simple manual operation by which for example a particular program can be tied to a device, allowing the program to be run thereon. However, no synchronization actually occurs, and there’s no teaching or suggestion that after this associating is completed, a change in the program at issue will be automatically reflected in the device.

In rejecting the claims, the Examiner pointed to paragraphs [0181], [0182] and [0411] to support his position that Shah et al. teaches the synchronization of virtual devices. However, and as implicitly acknowledged by the Examiner, these sections teach nothing more than associating the virtual devices with each other. For example, paragraph [0181] specifically notes that the term “association” does not refer to synchronization, but instead only refers to the fact that some relationship should be established between two items. Continuing, this section discusses “association” as potentially constituting an “indication of a caller/callee relationship” or an indication that some other operation should be performed relative to the two items, such as the deployment of a program, the modification of a program, etc. Paragraph [0182] expands upon this concept by noting that a “drag and drop” technique may be used to create the associations. However, in no place in these sections is there discussion of a true synchronization system, where a subsequent change in one item will result in a corresponding change in a associated item.

Examining Paragraph [0411], this section makes it even more clear that Shah et al. does not teach a true synchronization between virtual devices. In particular, this paragraph specifically describes a manual process by which device settings could be copied from a first device to a second device. In other words, this teaches a system that, in contrast to the

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present claims, does not perform an automatic synchronization, instead requiring a user to perform conventional "copy" and "paste" operations in order to transfer the settings from one device to another. In contrast, the present claims describe a system where, once virtual devices are associated with each other, any changes in one device that meet certain criteria will automatically be reflected in other virtual and/or real devices. This feature is simply not taught or suggested by Shah et al.

In order to more clearly delineate the important distinction discussed above, Applicant has amended the various independent claims to more particularly describe the synchronizing as occurring automatically. In other words, the independent claims have been amended to describe a system by which changes in one device can automatically reflected in another device without user intervention, i.e., in a manner similar to the "photo album" discussed in paragraph [0043] in the present application, for example. Once this automatic synchronization has occurred, the updated information is instantly available for download to active devices corresponding to the virtual devices. Such a system simply is not discussed in Shah et al. Unless the Examiner can point with particularity to a location in Shah et al. where such an automatic synchronization is taught, the Examiner's rejections under 35 U.S.C. §102(e) cannot stand.

In addition to the above, Applicants submit that the features described in several other claims are not taught in Shah et al. For example, the Examiner has asserted that paragraph [0546] of Shah et al. teaches (with regard to claim 4) the synchronization of a virtual device with one or more other virtual devices, where configuration and personal settings are at issue. However, this section is also completely silent when it comes to synchronization, instead only discussing the fact that contact information and other vendor relating information can be included in a configuration diagram. However, there is no discussion of automatically synchronizing this information among virtual devices to reflect an addition or other modification in a particular device.

In light of the above, Applicant respectfully submits that claims 1-17 and 19-22 are allowable over Shah et al., because Shah et al. fails to teach or suggest any automatic synchronizing of virtual devices with each other.

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Lastly, the Examiner asserted the claim 18 is unpatentable under 35 U.S.C. §103(a) based upon Shah et al. and in view of what the Examiner believes is well known in the art. However, claim 18 is dependent upon independent claim 9, and Applicant has discussed at length why claim 9 is patentable over Shah et al., as Shah et al. fails to teach any automatic synchronization of a virtual device with another virtual device. Therefore, Applicant submits that claim 18 is allowable for at least the reasons discussed above.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check or credit card payment form being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 19-0741.

Respectfully submitted,

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